

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2013-42-S

IN RE:	)	
	)	
Application of Palmetto Utilities, Inc. for	)	<b>PETITION FOR REHEARING</b>
Adjustment of Rates and Charges for	)	<b>AND/OR RECONSIDERATION</b>
Sewer Service	)	<b>OF SENSOR ENTERPRISES, INC.</b>
	)	<b>AND J-RAY, INC.</b>
_____	)	

The Petitioners/Intervenors Sensor Enterprises, Inc. d/b/a McDonald's and J-Ray, Inc. hereby submit this Petition for Rehearing and/or Reconsideration ("Petition") for reconsideration or rehearing of the South Carolina Public Service Commission's *Order Granting Adjustment to Rates and Charges*, issued on September 17, 2013. This Petition is filed pursuant to S.C. Code Ann. § 58-5-330 and S.C. Code Ann. Regs. 103-825(4)(a) and 103-854 and the following:

1. Pursuant to S.C. Code Ann. § 58-5-210, it is the responsibility of the South Carolina Public Service Commission ("Commission") to  
  
[S]upervise and regulate the rates and service of every public utility in this State, together with the power, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices and measurements of service to be furnished, imposed, observed and followed by every public utility in this State.
2. The Commission erred in failing to find that Palmetto Utilities, Inc.'s doubling wastewater charges for J-Ray, Inc. and almost quadrupling wastewater charges for Sensor Enterprises, Inc. under the terms of the Settlement Agreement as approved is unjust and unreasonable.
3. The Commission erred in finding that billing for wastewater services based on metered water usage is not feasible because:

- a. The Intervenors testified that they can compile and provide metered water usage data to Palmetto Utilities, Inc., and that this can be done at a reasonable cost.
- b. Palmetto Utilities, Inc. provided no evidence that the administrative cost to bill based on metered water usage would be unreasonable.
- c. Billing based upon metered water usage must be feasible if it is a method that Palmetto Utilities, Inc. is permitted to employ if it believes a particular customer is discharging wastewater in excess of the hydraulic loading guidelines set forth in S.C. Code Ann. Regs. 61-67 Appendix A.

4. The Commission erred in failing to adopt the Petitioners/Intervenors' proposed equivalency rates of 10 gallons per day per seat and 2 gallons per day per drive through customer. The Petitioners/Intervenors provided testimony supporting the establishment of these equivalencies in the form of testimony from David Russell, which was based upon actual water usage.

5. The Commission erred in basing its decision in any part on the assumed strength of the wastewater discharge from the Petitioners/Intervenors. Palmetto Utilities, Inc. presented no evidence regarding the strength of discharge from the Petitioners/Intervenors' restaurants. Instead, the Commission based its decision in part on speculation that the strength of the wastewater discharge from the Petitioners/Intervenors' restaurants is greater than that of a residential customer. The Petitioners/Intervenors testified that they utilize and maintain grease traps to prevent grease from entering the wastewater stream. The only testimony that Palmetto Utilities, Inc. presented regarding strength was the assumption that the Petitioners/Intervenors

use stronger cleaning products than a residential customer, but Palmetto Utilities, Inc. failed to provide any evidence to support that assumption.

6. The Commission erred in basing its decision in any part on the fact that Palmetto Utilities, Inc. provided notice of the requested rate change prior to obtaining approval for the change. The fact that information was provided to the Petitioners/Intervenors does not justify the rate increase.

7. The Commission erred in holding that the Petitioners/Intervenors were required to propose a rate and to demonstrate the effect of their alternatives on the overall rate design in order to demonstrate that the rate design proposed by Palmetto Utilities, Inc. is unjust and unreasonable as applied to the Petitioners/Intervenors.

8. Furthermore, the Petitioners/Intervenors attempted to introduce into evidence the expected amount of their monthly wastewater bill if they were charged based upon metered water use, which calculation was based upon a proposed rate. However, counsel for Palmetto Utilities, Inc. objected to the introduction of such information, and the Commission sustained the objection, thereby preventing the Petitioners/Intervenors from introducing the evidence it now says is necessary.

9. The Commission erred in accepting Palmetto Utilities, Inc.'s estimated monthly car counts for Petitioner/Intervenor J-Ray, Inc. despite the fact that J-Ray, Inc. presented testimony regarding the actual number of cars visiting the drive through window of its restaurant each month.

### **CONCLUSION**

Based upon the foregoing, the Commission's decision to approve the Settlement Agreement between Palmetto Utilities, Inc. and ORS, which calculates wastewater charges based

upon the unit contributory loadings set forth in S.C. Code Ann. Regs. 61-67, rather than adopt one of the Petitioner/Intervenor's alternatives is affected by an error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and arbitrary or capricious. Accordingly, the Petitioners/Intervenors request that the Commission rehear or reconsider this matter to correct these errors.

**CALLISON TIGHE & ROBINSON, LLC**

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**ATTORNEYS FOR PETITIONERS SENSOR  
ENTERPRISES, INC. D/B/A MCDONALD'S  
AND J-RAY, INC.**

October 7, 2013  
Columbia, South Carolina

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2013-42-S

IN RE:	)	
	)	
Application of Palmetto Utilities, Inc. for	)	<b>CERTIFICATE OF SERVICE</b>
Adjustment of Rates and Charges for	)	
Sewer Service	)	
	)	
_____	)	

I, Kathleen McDaniel, of Callison Tighe & Robinson LLC, Attorneys for the Petitioners/Interveners, do hereby certify that I have served a copy of the **PETITION FOR REHEARING AND/OR RECONSIDERATION OF SENSOR ENTERPRISES, INC. AND J-RAY, INC.** in this matter on the following parties by having a copy hand-delivered, on October 7, 2013 to the following:

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s/Kathleen McDaniel

October 7, 2013  
Columbia, South Carolina